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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of San Diego Gas & Electric
company (U 902 E) for Approval of SB 350
Transportation Electrification Proposals

And Related Matters.

Application No. 17-01-020
(Filed January 20, 2017)

Application No. 17-01-021

Application No. 17-01-022

**REPLY BRIEF OF THE NATIONAL DIVERSITY COALITION
ON THE SB 350 TRANSPORTATION ELECTRIFICATION STANDARD REVIEW
PROPOSALS FROM SAN DIEGO GAS & ELECTRIC, SOUTHERN CALIFORNIA
EDISON, AND PACIFIC GAS AND ELECTRIC**

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**NATIONAL
DIVERSITY
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I. INTRODUCTION

Pursuant to Rule 13.11 of the Commission’s Rules of Practice and Procedure and the schedule set by the Administrative Law Judges during evidentiary hearings, the National Diversity Coalition (“NDC”) hereby submits its Reply Brief on the SB 350 transportation electrification standard review proposals from San Diego Gas & Electric, Southern California Edison, and Pacific Gas and Electric. As with our Opening Brief¹, this reply focuses on the Residential Charging Program (“RCP”) from San Diego Gas & Electric (“SDGE”).

II. SDGE’S ARGUMENTS AGAINST REBATE PROGRAMS ARE UNREASONABLE

A. SB 350 Invites Rebate and Investment Proposals, but Does Not Require Every Proposal to Include Both.

SDGE claims that because SB 350 does not use the term “rebate” in some sections related to transportation electrification, the Legislature must not want rebate programs.² SDGE also states that the Legislature clearly wants “programs and investments”, and acknowledges that

¹ A.17-01-020 et al, *Opening Brief Of The National Diversity Coalition On The Sb 350 Transportation Electrification Standard Review Proposals From San Diego Gas & Electric, Southern California Edison, And Pacific Gas And Electric*, (11/21/2017) (“NDC Opening Brief”).

² A.17-01-020 et al, *Opening Brief Of San Diego Gas & Electric Company (U 902-E) On Its Standard Review Residential Charging Program*, (11/21/2017) (“SDGE Opening Brief”) at 6.

rebate programs are “programs”, but insinuates that a rebate program should be denied here because it is not a “significant utility investment”.³

First of all, SB 350 does use the term “rebate” in sections that relate to SDGE’s proposal. SB 350 defines “energy efficiency” to include, but not be limited to, “cost-effective activities to achieve peak load reduction that improve end-use efficiency, lower customers’ bills, and reduce system needs.”⁴ Such activities include EV drivers charging during off-peak times, which is an integral part of the program design of the RCP, as well as the Proposed Alternative Framework for the Residential Charging Station Rebate Program (“PAF”).⁵ SB 350 goes on to state that “Any **rebates** or incentives offered by a public utility for an energy efficiency improvement or **installation of energy efficient components, equipment, or appliances**”⁶ requires first showing proper installation. Here, the Legislature specifically authorizes rebate programs for the installation of components, equipment, or appliances (such as L2 EVSE) that facilitate energy efficiency activities (such as off-peak charging). This clearly contradicts the faulty reasoning urged by SDGE.

Second, the argument that the Commission is somehow prohibited from authorizing a rebate program in this proceeding even if some sections of SB 350 may not use the word “rebate” is completely unreasonable. SB 350 describes the environmental goals and benefits of GHG reduction that the Legislature is seeking, and directs focus toward key policy areas such as

³ SDGE Opening Brief at 6.

⁴ SB 350, Sec 16, modifying Public Utilities Code section 399.4(a)(2). “As used in this section, the term ‘energy efficiency’ includes, but is not limited to, cost-effective activities to achieve peak load reduction that improve end-use efficiency, lower customers’ bills, and reduce system needs.”

⁵ NDC Opening Brief at Appendix 1.

⁶ SB 350, Sec 16, modifying Public Utilities Code section 399.4(b)(1), (**emphasis added**). “Any rebates or incentives offered by a public utility for an energy efficiency improvement or installation of energy efficient components, equipment, or appliances in buildings shall be provided only if the recipient of the rebate or incentive certifies that the improvement or installation has complied with any applicable permitting requirements and, if a contractor performed the installation or improvement, that the contractor holds the appropriate license for the work performed.”

energy efficiency and transportation electrification. Applications from utilities must be designed to achieve the stated goals and benefits, with the specific for plans left open to some degree of innovation, but ultimately limited to what is likely to achieve the maximum benefits at minimum cost to ratepayers. So even if the Legislature had not specifically called for rebate programs, that would not preclude such a program, especially if one is likely to achieve environmental goals with maximum benefits at minimum cost to ratepayers, as the ratepayer and industry advocate sponsored PAF is in this case. On the other hand, by the same reasoning put forth by SDGE, it could be said that programs involving “utility ownership” or any kind of “rate design” are prohibited because those terms are not used either.

Third, SDGE admits that the Legislature called for “programs and investments” and that a rebate program is a “program”.⁷ Therefore, there is no basis to conclude that rebate programs are prohibited based on Legislative intent. However, SDGE seems to be trying to argue that the RCP, which includes utility ownership, is more appropriate because it is more of an investment. This would be a gross misapplication of the SB 350 guidelines for TE proposals generally, to this TE proposal individually. As SDGE reads it, any TE proposal (such as the PAF rebate program) should be rejected if it does not contain both a “program” and “investment” component. Without defining either term, SDGE suggests that rebate programs do not contain “significant utility investments”, while their RCP does. However, SDGE fails to understand that the utilities (including SDGE) already have a portfolio of TE projects which contain “significant utility investment”, especially utility ownership over substantial amounts of traditional infrastructure, and over EVSEs as well⁸. The project approved in this proceeding should not be looked at in isolation as needing to fulfill on its own both the “programs and investments” language of SB

⁷ SDGE Opening Brief at 6.

⁸ See for example A.14-04-014, A.14-10-014, A.15-02-009.

350. If such a standard were applied, no proposal would qualify, since no proposal contains every program design type mentioned in SB 350. There would be no basis to find even the RCP valid, since SDGE has not defined the terms “program” or “investment”, and has not explained how the RCP is also a program, or what constitutes an investment.

B. The ACR’s Call for Innovative Programs Does Not Prohibit the Use of Traditional Mechanisms

SDGE cites to the Assigned Commissioner’s Ruling (“ACR”) asking utilities to “think outside of the box” and “consider innovative programs” as a justification against approving a program that uses rebates.⁹ In contrast, SDGE argues that their proposal is appropriately innovative because it includes “competitive RFP processes, grid integration, the use of networked L2 EVSE chargers, multiple rate options, ownership options, and discounts for DAC, CARE and FERA participants”¹⁰.

The “outside the box” idea behind this proposal is that TE might be accelerated by providing more support to customers in obtaining L2 EVSE chargers. This idea is so outside the box that there is essentially no evidence to support the idea at all. But SDGE developed a project designed to add the greatest amount of cost to rate base (a very traditional concept), not one that would reduce the greatest known and demonstrated barriers to TE, such as the high initial cost of EVs, limited EV model selection, or even to a lesser degree EV range anxiety. The Proposed Alternative Framework still implements the “outside the box” EVSE idea, but does so with substantially less cost and risk by utilizing the tried and true mechanism of rebates. In the same way, the SDGE proposal seeks to implement the novel idea while using traditional mechanisms, such as utility marketing and websites, RFP and RFQ processes, and rate base cost recovery.

⁹ SDGE Opening Brief at 6-7, citing to R.13-11-007, *Assigned Commissioner’s Ruling Regarding The Filing Of The Transportation Electrification Applications Pursuant To Senate Bill 350*, (09/14/2016) (“ACR”) at 16, 19.

¹⁰ SDGE Opening Brief at 7.

SDGE’s own attempt to categorize their proposal as “innovative” only underscores that the PAF is also “innovative” in the very same way. The PAF rebate program satisfies essentially the same list of innovative characteristics that SDGE applies to their proposal. The PAF includes “grid integration” and “multiple rate options” through the requirement that customers sign up for EV TOU rates or Grid Integrated Rates¹¹. Grid integration is also achieved by the “use of networked L2 EVSE chargers” in the PAF¹². “[D]iscounts for DAC, CARE and FERA participants”¹³ are contained within the PAF rebate structure as well. The PAF employs competitive processes to identify qualified EVSE¹⁴ and contractors for installation work¹⁵, which can use the same “competitive RFP processes” as SDGE’s proposal, or simplified RFQs. The only item on SDGE’s criteria of “outside the box” thinking that the PAF does not include is “ownership options”. This singular exception proves that what SDGE really means when they say that a rebate program is not “innovative”, is that it does not allow SDGE to add additional program costs from utility ownership of residential EVSE to rate base. This is no reason to reject a rebate program.

C. SDGE’s Reading of a Legislative Preference for Utility Ownership is Unfounded

SDGE notes that SB 350 requires that proposals “do not unfairly compete with nonutility enterprises”, and then assumes, “That the Legislature did not include a blanket prohibition against utility ownership in SB 350 is a strong indicator that the Legislature believes that there is a role for at least some utility ownership.”¹⁶ This is an extremely weak argument, and its

¹¹ *Id.* at paragraph 10.

¹² *Id.* at paragraph 2, 5.

¹³ *Id.* at paragraph 3, 6.

¹⁴ NDC Opening Brief at Appendix 1, PAF paragraph 2, 5.

¹⁵ NDC Opening Brief at Appendix 1, PAF paragraph 7, 8; SDGE Opening Brief at 16.

¹⁶ SDGE Opening Brief at 24.

inclusion in SDGE's opening brief only shows what little basis SDGE has to justify the utility ownership component of the RCP.

The lack of an explicit "blanket prohibition" against any particular thing in a statute is almost never a "strong indicator" for that thing. SB 350 requires proposals that will reduce GHG emissions, but there is no blanket prohibition against proposals to increase coal or diesel burning. Yet it is unlikely that the Legislature strongly believed that there was a role for some increased coal or diesel burning in SB 350 applications. Such an inference would lead to all manner of unreasonable justifications based on things that statutes do not explicitly prohibit.

As it is, SB 350 contains many clear goals for reduced GHG emissions that are generally inconsistent with increased coal or diesel burning. So any proposal that includes coal or diesel burning must be carefully scrutinized and show extraordinary justification that such activities will not violate legislative intent. In the same way, SB 350 clearly prohibits unfair competition, which is generally inconsistent with the monopolistic, ratepayer funded, and guaranteed returns associated with utility ownership. Therefore, any program such as the RCP that includes utility ownership must show extraordinary justification that such activities will not violate legislative intent. SDGE's reliance upon weak arguments and unsupported assumptions of market need has failed to provide sufficient justification for utility ownership.

III. SDGE HAS NOT PROVIDED ADEQUATE SUPPORT FOR THEIR EXCESSIVELY LARGE PROGRAM

A. SDGE Misinterprets Data to Justify Their Desired Program Size

SDGE selected a program goal of 90,000 EVSE chargers by first taking 10% of the Governor's 2025 goal for 1.5 million ZEVs as San Diego's share, then subtracting the projected ZEV population in San Diego for 2020, and finally choosing to target 75% of the remaining

needed EVs.¹⁷ As detailed in our opening brief, using correct estimates and proper calculations (including subtracting the projected 2025 ZEV population from the 2025 Governor’s goal and counting only BEVs which are the ZEV type that is relevant to this program) yields a reasonable program goal of 18,000 EVSE chargers. This goal is reached even after consistently applying very conservative estimates with reductions, and generous allowances of assumed need.¹⁸

As in their testimony, SDGE also misinterprets and misapplies data in their opening brief. SDGE’s brief cites to an American Lung Association (“ALA”) report discussing potential benefits associated with an increase in ZEVs.¹⁹ If by 2050 all new cars sold are ZEVs, the report estimates that billions of dollars in health and climate cost savings would accrue to the 10 states they studied. California would see the greatest benefits of the 10 states, as California has by far the largest population, the largest territory, and the most EVs. SDGE then concludes that ratepayer dollars should be spent on large programs to realize these health and climate benefits, and criticizes intervenors for proposing a smaller and less expensive rebate program.²⁰

No parties are opposed to achieving environmental and health benefits from reduced pollution in California. NDC has always strongly supported reasonable programs that were designed to reduce pollution, as our minority and low-income constituents predominantly live in heavily pollution-impacted disadvantaged communities. However, the ALA report in no way indicates that SDGE’s proposal is reasonable, or cost-efficient, or at all likely to achieve environmental benefits. Expanded charging infrastructure is one of dozens of recommendations in the report (including **rebates**, tax credits, policy reform, non-monetary incentives such as

¹⁷ NDC Opening Brief at 3, citing to SDGE-04 at RS-6 through RS-7.

¹⁸ NDC Opening Brief at 3-8.

¹⁹ SDGE Opening Brief at 7-8, citing to Exhibit SDGE-28.

²⁰ *Id.*

HOV lane access, etc.) that can help realize benefits from more ZEVs.²¹ The report does not speculate whether the Governor's goals will be met by 2025 without utility involvement, nor does it determine how many charging stations will be needed by 2050, and never contemplates utility ownership of EVSE, particularly not over residential EVSE, as charging recommendations focus on public/workplace locations.

Furthermore, even granting that the report identifies substantial benefits to California from greater ZEV adoption by 2050, the vast majority of those benefits would occur outside SDGE's service territory. This is because SDGE's service territory is by far the smallest of the three major IOUs, and as ORA explained, SDGE contains a disproportionately fewer number of DAC's than the rest of the State.²² Meaning that even if the severity of environmental problems and the degree of environmental benefits for California were some valid basis to indicate appropriate program size, the ALA report would only serve to establish a limit on SDGE, that their program must be the smallest of the IOUs.

Additionally, the benefits discussed in the ALA report which might accrue in 2050 do not reasonably inform the size of SDGE's program with target goals for 2025. As they did in their initial calculation of program size, SDGE again compares data for different years, this time 25 years apart, in the way most favorable to their objectives. This is a recurring flaw in SDGE arguments, and in their Opening Brief they reiterate the following twice for emphasis:

it is worth repeating that ...to meet our share of statewide GHG emission reduction targets—more than 1.6 million vehicles by 2050 need to be electrified. The modified Residential Charging Program addresses less than 6% of these vehicles.²³

²¹ Exhibit SDGE-28 at 18.

²² "Due to the nature of the demographics and size of SDG&E's service territory, the number of census tracts in SDG&E's territory according to the statewide definition is significantly fewer than the top quartile of DAC census tracts within SDG&E's service territory." A1701020 et al, *Opening Brief Of The Office Of Ratepayer Advocates On The Standard Review Transportation Electrification Proposals From San Diego Gas & Electric, Southern California Edison, And Pacific Gas And Electric* (11/21/2017) ("ORA Opening Brief") at 73.

²³ SDGE Opening Brief at 13, 25.

It is misleading for SDGE to compare the 90,000 target for 2025 as a percentage of the 2050 EV need, to say nothing of the questionable calculations and assumptions used to arrive at their prediction regarding the 2050 EV market 32 years in the future. These recurring inappropriate comparisons undercut the validity of SDGE's requested program size, and show that their projections of EVSE need cannot be trusted.

D. SDGE Fails to Provide Any Defense for the Excessive Duration of Their Proposal

From an anticipated 2018 decision through the final year of construction in 2026, the SDGE RCP would span nine years. NDC and other intervenors have objected to SDGE's project length, as it clearly violates the reasonable and appropriate two to five year time limit mandated in the ACR.²⁴ Alternatively, as explained in our opening brief, conforming the RCP to the required five-year limit would end the program in 2023, and based on SDGE's own projections, allows for approximately 19,000 customers to participate.²⁵ This lines up well with the appropriately calculated program size of 18,000.

In reply testimony addressing concerns over their excessive program length, SDGE declines to modify or justify their proposal which violates Commission guidelines. Instead they only state that a five-year enrollment and installation period starting from 2020 is reasonable.²⁶ Then again in their opening brief, SDGE simply asserts that it is reasonable to give drivers five years to enroll, starting in 2020, and then have another year for construction.²⁷

Although SDGE may wait to respond in their reply brief, until now they have not even begun to offer a meaningful defense of their clear violation of the ACR's time restriction. The

²⁴ NDC Opening Brief at 8-9.

²⁵ *Id.* at 9-10.

²⁶ *Id.* at 8. See also SDGE-11 at RS-9

²⁷ SDGE Opening Brief at 13-14.

assigned Commissioner called for programs up to five years in length, and SDGE does not have the authority to tell the Commission that five years for just the enrollment period is fine, plus four more years for preparation and implementation. This blatant disregard of the five-year limit, exceeding it by nearly double, and refusing to provide any justification or modification must not be permitted.

IV. OTHER ISSUES

A. The Contractor Qualification Process Should Ensure Safe Installations, Without Unduly Excluding Competent Installers or Adding Cost and Confusion

SDGE intends to select installers through an RFP process that requires contractors to be IBEW-signatories and certified through the Electric Vehicle Infrastructure Training Program (“EVITP”).²⁸ There is little information in the record about the standards or training that these requirements provide.²⁹

NDC recommends requiring that EVSE installation and related electrical work be performed by qualified, licensed electricians, which SDGE will identify and list on their Marketplace website.³⁰ Given that the installation process of an EVSE is essentially plugging it in, and a needed electrical upgrade would consist of installing a standard 240v plug (such as are routinely used for dryers)³¹, additional certifications and membership requirements may not ensure any additional safety or quality, and will only add to increased costs and confusion for customers. Without sufficient information in the record to demonstrate likely benefits from

²⁸ SDGE Opening Brief at 16.

²⁹ Some IBEW signatories will have graduated from an apprenticeship program, but the standards for that program are also unknown. See SDGE Opening Brief at 16, FN 71.

³⁰ NDC Opening Brief at Appendix 1, PAF paragraph 7.

³¹ “Q But you would agree that [EVSE installation] is more complex than putting a dryer plug?

A No.

Q So you're saying it's just the same thing?

A It is similar, yes.

Q It's not a complex job at all?

A No, it is not.” Packard, Transcript Vol 11:1423:20-27.

IBEW-signatory and EVITP certification requirements, NDC recommends against including them in the installer qualification process.³²

V. CONCLUSION

Any proposal can claim to be designed to maximize ratepayer benefits while minimizing cost. But the utilities have strong incentives to maximize costs in order to maximize profits for their shareholders. The Commission is responsible for ensuring that ratepayer interests are protected by reigning in the utilities' impulses to spend, and by focusing proposals so that they are cost effective and likely to result in comparable ratepayer benefits. The PAF is designed precisely with this objective, and is supported by ratepayer advocates. NDC strongly urges the Commission to approve the PAF, and appreciates the opportunity to provide these recommendations.

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Respectfully Submitted,

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³² See *Also* TURN Opening Brief at 108 and ORA Opening Brief at 64-67 for similar recommendations.